



PLANNING COMMISSION

Department of Planning and Development Services P.O. Box 27210 Tucson, Arizona 85726-7210

Approved by Planning Commission
On December 2, 2009

Date of Meeting: November 4, 2009

The meeting of the City of Tucson Planning Commission was called to order by Catherine Applegate Rex, Chair, on Wednesday, November 4, 2009, at 7:00 p.m., in the Mayor & Council Chambers, City Hall, 255 W. Alameda Street, Tucson, Arizona. Those present and absent were:

1. ROLL CALL

Present:

Catherine Applegate Rex, Chair
Rick Lavaty
Brad Holland, Vice Chair
Joseph Maher, Jr.
Mark Mayer
Thomas Sayler-Brown
Craig Wissler

Member at Large, Ward 5
Member at Large, Ward 1
Member, Ward 6
Member at Large, Ward 6
Member, Ward 5
Member, Mayor's Office
Member, Ward 3

Absent:

Shannon McBride-Olson
William Podolsky
Daniel J. Williams

Member, Ward 2
Member at Large, Ward 4
Member, Ward 1

Staff Members Present:

Ernie Duarte, Planning and Development Services, Director
Jim Mazzocco, Planning and Development Services, Planning Administrator
Tom McMahon, Principal Assistant City Attorney
Jonathan Mabry, Housing and Community Development, Historic Preservation Officer
Erin Morris, Planning and Development Services, Project Coordinator
Ceci Sotomayor, City Clerk's Office, Secretary

2. MINUTES FOR APPROVAL: July 1, 2009, September 2, 2009, and October 7, 2009.

Chair Rex announced the October 7, 2009 minutes were emailed to the Commissioners, plus a hard copy was provided during the evenings meeting. Chair Rex asked if the Commissioners would prefer to vote on all the minutes at one time or individually.

Commissioner Mayer stated he had corrections to the September minutes and requested that they be considered individually.

It was moved by Commissioner Lavaty, duly seconded, and carried by a voice vote of 7 – 0 (Commissioners McBride-Olson, Podolsky, and Williams absent), to approve the minutes for July 1, 2009, and October 7, 2009, as presented.

Commissioner Mayer asked that the following corrections to the September 2, 2009, minutes be made:

- Page 5, first paragraph, line 5, insert “power-point” in front of the word material.
- Page 14, Under the roll call vote, Change his vote from “Nay” to “Abstained.”
- Page 16, first paragraph, line 8, “Title 10” should be “Title 11.”

Chair Rex asked if there were any other comments by Commissioners. Hearing none, she asked for a roll call vote.

It was moved by Commissioner Mayer, duly seconded, and carried by a voice vote of 7 – 0 (Commissioners McBride-Olson, Podolsky and Williams absent), to approve the September 2, 2009, minutes with corrections.

3. STUDY SESSION – ARCHITECTURAL DOCUMENTATION – LUC TEXT AMENDMENT

Jonathan Mabry Ph.D., Housing and Community Development, Historic Preservation Officer, said the information distributed to the Planning Commission contained background material that described previous documentation requirements put into place by the Mayor and Council in 2007. He said it also included a Pima County Superior Court ruling stating that documentation requirements should not be in the building code. The City Attorney advised the Mayor and Council that a new ordinance amending the *Land Use Code* was necessary. Dr. Mabry said, included in the Commissioners’ packet was a draft of the actual formatted amendment.

Dr. Mabry explained the amendment was not intended to block or significantly delay demolitions, it was intended to create a requirement of creating a permanent record of historic resources in the City before they were lost to demotion. He said, since this was a national standard for partially mitigating the loss of historic resources, many other

cities and states in the Country had similar documentation requirements of historic buildings before they could be demolished.

Dr. Mabry added all the requirements were based on national standards for documentation of historic buildings, namely, the standards of the Federal *Historic American Building Survey*. He said there was a lot of similarity between the requirements that were being proposed and the requirements already in place in many other cities and states. If similar requirements had been in place in the City of Tucson during the period of Urban Renewal, permanent loss of significant historic architecture information would not have happened.

Dr. Mabry explained the amendment would require property owners who intended to demolish a structure that was fifty years old or more to submit Minor Documentation and Full Documentation if the structure met criteria for historical significance, as defined by the *National Register of Historic Places*.

Minor Documentation required current photos of all elevations of the structure and documentation that establishes the date of construction.

Full Documentation required a measured floor plan, current photos of all elevations of the structure, documentation that establishes the date of construction, more detailed information about architectural features, and any supplemental information about people or historic events that occurred in the building, if known.

Dr. Mabry also described and explained:

- Applicability
- Review requirements
- Application Procedures
- Minor documentation requirements
- Full documentation requirements
- Documentation Retention.

Chair Rex asked if there was any discussion.

Commissioner Maher asked if the City had a Historic Preservation Officer (HPO) to review the information. He said he was concerned that some of things mentioned should have already been documented with the Planning and Development Services Department (PDSD), in terms of historic values, historic records, or whether someone had applied for historic significance. He added he did not see a time table for the review that was mentioned and was concerned that homeowners needed to prove their buildings were historic and safe. He said the amendment was too polite and “beating around the bush” in terms of what was trying to get accomplished. If historic buildings needed to be retained, they should be done properly and if architectural documentation needed to be done, a few photographs were a joke. He commented he was very upset.

Dr. Mabry stated he was the City's HPO and one of his responsibilities was to review all of the submittals with some assistance. The HPO has never had more than three staff members, and currently they were down to two staff members.

Dr. Mabry said they worked with the City Attorney to design a draft that was simple, straight forward, and would stand up to any court challenge. The submittal requirements were essentially the same as all of the other jurisdictions he had researched. He said some jurisdictions had additional documentation requirements that were usually applied to locally designated landmarks.

Dr. Mabry also added the PDSD had maps and lists showing every contributing property in every historic district. There were more than six thousand contributing properties within the City limits within the twenty-four registered historical districts. He said there were four pending historic districts and knew the identities of all the contributing properties. He said he agreed there had never been a City wide inventory of every building that could potentially be a historic destination and did not think it was possible with the current number of City staff.

Commissioner Maher asked if this was currently City-wide.

Dr. Mabry explained the City paid a consultant to do an evaluation of post World War II residential subdivisions, developments, and architectural developments. As a result of that study, a basis for evaluating National Register eligibility of the ubiquitous ranch houses that were previously discussed was developed.

Commissioner Maher commented historic properties did not pay property taxes.

Dr. Mabry explained that owner occupants of contributing properties in designated National Register Historic Districts were eligible to enroll in the voluntary State Historic Tax Credit Program. By following certain guidelines, they could get up to fifty-percent off their property taxes annually. He said the intention behind the program was that it would free up household budget money to be able to maintain the historic property that was viewed as a community asset. He stated, approximately fifteen percent of eligible property owners were currently enrolled in the tax credit program.

Discussion ensued regarding the draft *Plan* amendment and included the definition of Sections 2.8.8.7 through 2.8.8.9 under item 5.3.11.1

Chair Rex commented her overall impression of the text amendment was that it was poorly written. She said she took an imaginary trip to PDSD and followed the steps to try to meet the submittal requirements. She said she found it impossible to figure out what PDSD was asking for and what was being described. Many of the terms used were not found in the *Land Use Code*.

Other concerns Chair Rex mentioned were:

- Why PDSD did not use the language and/or terms used in the current *Land Use Code* (LUC)
- The presentation did not match what was in the documentation
- A site plan and dimensioned floor plans depict exiting conditions.
- How did one determine “documentation confirming the year of construction and dates of additions to the building to be demolished.”
- Confusion regarding the eligibility criteria for the *National Register of Historic Places*
- Site plans and dimensioned floor plans were not explained. Did PDSD want the site plan measured or just thrown on a piece of paper.
- If the criteria mentioned, was to judge what was going to be submitted, there had to be detailed information to explain what the definition of the terms were and where one could find the information, so the application would not be rejected for being incomplete.
- The ability for someone to execute the application on the first attempt.

Chair Rex said the text amendment was a difficult document for anyone to understand and complete.

Commissioner Saylor–Brown said he did not have any problem reading and understanding the document as long as he kept reminding himself what was said did not prevent him from demolishing a building. He thought it was understandable.

Commissioner Holland said his concern was that law said one thing, but how it was taught to staff was another thing. Uniform understanding was his first concern. He said judges wrote rulings, but not all judges understood the nuances of the code. He said he understood there was direction from the court to do something that was reasonable, but the courts were not always clued in to the technicality of the different pieces of the City’s *LUC*.

Commissioner Holland said as new sections of the *LUC* were written, he hoped consistent terms were used to be able to slide the *Plan* amendment document into the revised *LUC* so that it would not have to be rewritten.

Commissioner Holland added he heard concerns from the public regarding technical questions about the language. He said his concern was how to literally take the judicial order, what the judge meant by the order, and the judicial language. He stated one thing to keep in mind was the need for a document to make sense and have the ability to be submitted smoothly into a larger revised code.

Dr. Mabry said there were a lot of suggestions and good advise made from the Commissioners. The suggestion to make the terms consistent with the rest of the *LUC* would be a straight-forward revision that can be done, but not all City staff were experienced enough to review the documents. He commented there were staff designated that had a lot of expertise and a good understanding of the historic eligibility criteria in the PDSD that currently examined all the Historical Preservation Zone cases for the City.

Commissioner Holland stated he was concerned how the revisions would be taught to staff and the public. He said from a legal stand-point, the information needed to be precise so that staff was able to teach the statute to those who wanted to do the right thing.

Commissioner Lavaty agreed with some of the comments made by the other Commissioners regarding the language. He also suggested losing some of the acronyms and convoluted circular language. He said the document needed to reflect the intent of the ordinance.

Commissioner Maher suggested adding language that offered a specific description or format when referring to scale and size in development plans.

Other subjects discussed were:

- The Court case that applied to the amendment.
- The importance of creating a record by photo documentation
- The importance of using a digital format verses photographic paper.
- Resources available through advanced technology to begin and create an inventory of properties of a certain criteria.
- Other cities or jurisdictions comparable to landscapes.
- Consolidation of the Demolition Permit and application process.

Chair Rex announced the recommendation from staff was for the Planning Commission to set this amendment for Public Hearing on December 2, 2009.

Jim Mazzocco, Planning and Development Services Department Planning Administrator, advised the PDSD staff needed another month to implement the changes to discuss and ensure the ordinance was tighter.

Chair Rex suggested that at the Planning Commission meeting of December 2, 2009, the item would be set as a Study Session continuation to determine if the Public Hearing could take place in January.

4. MEETING STARTING TIME

Erin Morris, Planning and Development Services Project Coordinator, announced this item was placed on the agenda for discussion and the possibility of changing the Planning Commissions' meeting time to an earlier time. She said a conversation was held between staff and the security guard assigned to work at City Hall, which prompted the item being considered.

Discussion ensued between staff and the Commissioners regarding the possibility of changing the start time of the meeting.

Commissioner Mayer suggested beginning the Planning Commission meeting at 6:00 p.m. He was concerned the earlier time would make it difficult for the public to attend the Public Hearings.

It was moved by Commissioner Lavaty, duly seconded, to modify the start time of the Planning Commission meeting to begin at 6:00 p.m. for the next six meetings, at which time, it will be revisited to determine if the new time would remain permanent.

Commissioner Mayer stated he wanted to make a friendly amendment to the motion. He said to include the start time for Public Hearings to begin at 7:00 p.m., to provide the public more time to attend the Public Hearings.

Chair Rex asked if the motion maker and the seconder accepted the friendly amendment and both responded affirmatively.

Chair Rex asked if there was any further discussion on that item. Hearing none, she asked for a voice vote.

Motion with a friendly amendment to modify the start time of the Planning Commission meetings to begin at 6:00 p.m. for the next six meetings and Public Hearings to begin at 7:00 p.m., to allow the public more time to attend, was carried by a voice vote of 7 to 0 (Commissioners McBride-Olson, Podolsky, and Williams absent). After the six meetings, the time change will be revisited to determine if the new time would remain permanent.

5. OTHER BUSINESS

a. Mayor and Council Update

Ernie Duarte, Planning and Development Services Department (PDSD) Director, announced the following:

- At the Mayor and Council Study Session held October 20, 2009, PDS staff gave a presentation on an item that had been before the Planning Commission regarding the *Land Use Code (LUC)* text amendments on Charter Schools in existing residences. He said the Mayor and Council directed staff to schedule the item for a public hearing before the Commission and return to the Mayor and Council with the recommended text amendments for consideration. Mr. Duarte stated he anticipated the text amendment would be scheduled for the Planning Commission meeting in January.
- At the Mayor and Council Study Session held October 20, 2009, PDSD staff gave a presentation and update on the *LUC* Simplification Project/Clarion Report.
- At the Mayor and Council meeting held on November 9, 2009, the Public Hearing on the Feldman's Neighborhood Preservation Zone had been scheduled.

Jim Mazzocco, Planning and Development Services, Planning Administrator, stated that at the Mayor and Council Study Session held on October 20, 2009, regarding the *Land Use Code* Simplification Project/Clarion Report, he reported the current status of the eleven new articles of the reformatted *LUC*. He said the Mayor and Council gave

specific direction to proceed with the goals and to report on any key concerns during the process.

b. Other Planning Commission Items (Future Agenda Items for Discussion/Assignments)

- Architectural Documentation Study Session and a Public Hearing regarding the ordinance that addressed documentation for the demolition for historic buildings that were fifty years old or more.
- Study Session in December and Public Hearing in January on the potential *Land Use Code* Amendment regarding Charter Schools in Existing Residences.

c. Update on Water and Wastewater Study Oversight Committee by Planning Commission Members

Commissioner Maher announced there would be a presentation to the community on the completed Phase Two draft report of the City/County Water and Wastewater Study was scheduled for November 9, 2009, at the Randolph Golf Course Clubhouse, 600 S. Alvernon Way, at 6:15 p.m. He asked that the notice be distributed to the Commissioners.

6. CALL TO THE AUDIENCE

There were no speakers.

7. ADJOURNMENT – 8:07 p.m.